

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN RE:

CHAPTER 13 CASE NO.:

BRIAN K. LESTER

22-11949-JDW

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN (DKT. #12)

COMES NOW the Chapter 13 Trustee, Locke D. Barkley (the "Trustee"), by and through counsel, after reviewing the voluntary petition (the "Petition"), Schedules, Statement of Financial Affairs, and conducting the Section 341(a) Meeting of Creditors, and files this Objection to Confirmation of Chapter 13 Plan (the "Objection"), and in support thereof states as follows:

1. The Debtor commenced this proceeding by filing a voluntary petition on August 10, 2022 (the "Petition Date"). The Debtor filed a proposed Chapter 13 Plan (Dkt. #12) (the "Plan") on September 1, 2022.

2. The Debtor is below median income, and the proposed term of the Plan is sixty (60) months. Section 5.1 of the Plan does not provide for a distribution to nonpriority unsecured creditors. The liquidation value in Section 5.1 of the Plan is zero (\$0).

3. The Debtor's Schedules I and J (Dkt. #11, Pgs. 21-24) fail to accurately report the Debtor's current income and expenditures as required by 11 U.S.C. § 521(a)(1)(B)(ii); therefore, the requirement of §1325(a)(1) is not met. Specifically, the Debtor testified at the telephonic Section 341(a) Meeting of Creditors conducted on September 28, 2022 (the "341 Meeting") that he is starting a new job on October 10, 2022. Therefore, Schedule I must be amended to disclose the Debtor's current employer and income. Additionally, Schedule J fails to provide the expense for the lease payment for the 2008 Ford F-150; therefore, Schedule J must be amended.

4. The Plan fails to comply with 11 U.S.C. §§ 1325(a)(1) and §521(e)(2)(A)(i) because the Debtor has failed to provide the Trustee with a copy of the Federal tax return for the 2021 tax year.

5. The Plan fails to comply with 11 U.S.C. § 1325(a)(1). Section 3.1(a) of the Plan provides that the ongoing mortgage payments shall be paid beginning in November 2022 to Carrington Mortgage Services ("Carrington"). However, the Plan will not be sufficiently funded to allow for the disbursement to Carrington and all other creditors at confirmation due to the delinquency in plan payments in the amount of \$2,396.00.00 through October 2022 as of October 7, 2022.

6. The Plan fails to comply with 11 U.S.C. §§ 1325(a)(9) and 1308. The Debtor has failed to file his 2021 Federal tax return according to the Debtor's testimony at the 341 Meeting.

7. The Debtor should timely remit all plan payments due under the Plan prior to the hearing, or the case should be dismissed for failure to comply with the proposed Plan.

8. For the reasons set forth herein, the Trustee submits that confirmation of the Plan should be denied, and the case should be dismissed.

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that upon notice and hearing that this Court enter its order sustaining the Objection. The Trustee prays for other such general and specific relief to which the Trustee and this bankruptcy estate may be entitled.

Dated: October 12, 2022.

Respectfully submitted,

LOCKE D. BARKLEY
CHAPTER 13 TRUSTEE

BY: /s/ Melanie T. Vardaman
ATTORNEYS FOR TRUSTEE
W. Jeffrey Collier (MSB 10645)
Melanie T. Vardaman (MSB 100392)
6360 I-55 North, Suite 140
Jackson, MS 39211
(601) 355-6661
mvardaman@barkley13.com

CERTIFICATE OF SERVICE

I, the undersigned attorney for the Trustee, do hereby certify that I electronically filed the foregoing with the Clerk of Court using the CM/ECF system. I hereby certify that I either mailed by United States Postal Service, first-class, postage prepaid, or electronically notified through the CM/ECF system, a copy of the above and foregoing to the Debtor, attorney for the Debtor, the United States Trustee, and other parties in interest, if any, as identified below.

Dated: October 12, 2022.

/s/ Melanie T. Vardaman
MELANIE T. VARDAMAN